

Message Text

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ORIGIN ARA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-01 INR-07 L-02

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

AID-05 EB-07 CIEP-01 TRSE-00 STR-01 OMB-01 CEA-01

COME-00 FRB-03 XMB-02 OPIC-03 LAB-04 SIL-01 /083 R

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EB/ITP/OT/GCP - MR. MORRISON (D)

STR-MR. LANDE (DRAFT)

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R 202043Z FEB 75

FM SECSTATE WASHDC

TO AMEMBASSY PORT AU PRINCE

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E.O. 11652: N/A

TAGS: EFIN, EIND, HA

SUBJECT: INVESTMENT DISPUTES

REFS:A)PORT AU PRINCE 1907; B) PORT AU PRINCE 1918

C) PORT AU PRINCE 1504; D) STATE 200535; E) STATE

206052 OF 1974; F) PORT AU PRINCE 350

1. DEPARTMENT IS CONCERNED THAT DESPITE CONSIDERABLE
EFFORTS BY EMBASSY AND DEPARTMENT TO ENCOURAGE GOH TO RE-
SOLVE VARIOUS INVESTMENT DISPUTES,THESE PROBLEMS CONTINUE
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TO EXIST. THEY ADVERSELY EFFEC THE INVESTMENT ENVIRONMENT

IN HAITI AND HAVE THE POTENTIAL OF TRIGGERING US LEGISLATIVE SANCTIONS. ASIDE FROM TELE-HAITI PROBLEM, WHICH IS RECEIVING CONSIDERABLE ATTENTION BY EMBASSY AND DEPARTMENT, WE HAVE IN MIND LINGERING AEROTRADE MATTER AND DUPONT CARIBBEAN.

2. AEROTRADE

A) DEPARTMENT IS CONCERNED THAT ALTHOUGH DISPUTE HAS BEEN QUIESCENT, IT REMAINS UNRESOLVED WITH NO INDICATION OF ANY MOVEMENT TOWARD RESOLUTION SINCE OCTOBER COURT DECISION (AEROTRADE VS AID). DEPARTMENT APPRECIATES EMBASSY GOOD OFFICES TO ENCOURAGE GOH TO MEET WITH BYERS (REFS A AND B)

AND RECOGNIZES DIFFICULTIES IN REPEATEDLY RAISING ISSUE WITH GOH.

B) IN EMBASSY DISCUSSION WITH FOREIGN SECRETARY ON SEPT 27 (REF B), BRUTUS AGREED ON DESIRABILITY OF DEALING WITH CONTROVERSIAL DISPUTES, RECEIVED FAVORABLY A SUGGESTION THAT A MEETING BE HELD BETWEEN JUSTICE SECRETARY JEANTY AND AEROTRADE REPS, AND SAID HE WOULD RAISE THE MATTER WITH PRESIDENT DUVALIER. WE ARE PUZZLED THAT BRUTUS DID NOT FOLLOW UP ON THESE POSSIBILITIES AND BELIEVE THAT THE FAVORABLE TONE OF THAT ENCOUNTER MAY YET SERVE AS A BASIS ON WHICH EMBASSY COULD RAISE ISSUE ONCE AGAIN.

3. DUPONT CARIBBEAN

A) PIERSON STATES THAT HE HAS HIS FINANCIAL ACCOUNTING ALMOST IN ORDER. WE HAVE INDICATED THAT SATISFACTORY ACCOUNTING OF CLAIMS AND SUPPORTING EVIDENCE ARE REQUISITES TO FURTHER US ACTION. ACCOUNTING IF IT DEMONSTRATES THAT SEIZURE OF US OWNED PROPERTY HAS TAKEN PLACE WILL ALSO HAVE EFFECT OF BRINGING HAITI UNDER EXPROPRIATION PROVISIONS OF TRADE ACT (SEE PARA 5).

B) AS EXPRESSED IN SATE/AID MEETING WITH AMBASSADOR ISHAM ON JANUARY 9, WE CONTINUE TO FEEL THAT MODERATION OF PIERSON'S DEMANDS AND GOH WILLINGNESS TO DISCUSS MATTER WITH HIM ARE KEYS TO SATISFACTORY RESOLUTION OF THIS PRO-LIMITED OFFICIAL USE

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BLEM. AMBASSADOR UNDERTOOK TO BROACH WITH GOH, IN CONTEXT OF OTHER DISPUTES AS WELL, DESIRABILITY OF WORKING OUT SATISFACTORY SOLUTION.

4. STATE/AID REVIEWED STATUS OF THESE CASES FEBRUARY 7 WITH ASST ADMINISTRATOR KLEINE. CONCERN WAS EXPRESSED OVER PROSPECT OF FACING UPCOMING CONGRESSIONAL HEARINGS ON FOREIGN ASSISTANCE WITH SAME (IF NOT EXPANDED) LIST OF

OUTSTANDING DISPUTES THAT WE HAD LAST YEAR, AND IMPORTANCE OF SHOWING MOVEMENT TOWARD RESOLUTION. THE DEPARTMENT HAS RECEIVED WITHIN THE LAST WEEK A TELEPHONE INQUIRY FROM SENATOR LAWTON CHILES' OFFICE ON THE STATUS OF THE AEROTRADE CASE STIMULATED BY A LETTER FROM AEROTRADE VICE PRESIDENT HARRY B. SHUMAN. PIERSON CONTINUES TO ACTIVELY PROMOTE HIS CLAIMS AND IS AGAIN MEETING WITH DEPARTMENT OFFICERS ON FEBRUARY 20 (WILL REPORT SEPTTEL).

5. FYI. REGARDING CONCERNS EXPRESSED PARAS 1, & 14 OF REF F, THE CIEP INTERAGENCY STAFF COORDINATING GROUP ON EX-PROPRIATION MET FEBRUARY 5 TO CONSIDER COUNTRY ELIGIBILITY FOR GSP UNDER SEC 502 (B)(4). THE GROUP'S REVIEW OF OUTSTANDING CASES IN HAITI ENCOMPASSED I.S. JOSEPH, DCI,

AEROTRADE AND TELE-HAITI. BASED UPON INFORMATION AVAILABLE AT THAT TIME, IT WAS DECIDED THAT NONE OF THESE CASES PRESENTLY AMOUNTS TO A NATIONALIZATION WITHIN THE MEANING OF THE ACT. IT MAY THEREFORE BE UNNECESSARY AND, AS EMBASSY POINTS OUT, PERHAPS COUNTER-PRODUCTIVE, TO RAISE THESE ISSUES IN SPECIFIC GSP CONTEXT AT THIS TIME. SEPTTEL WILL BE TRANSMITTED TO ALL POSTS ASAP REGARDING GENERAL SUBJECT OF COUNTRY ELIGIBILITY FOR GSP UNDER SEC 502 (B)(4). END FYI.

6. IN ACCORD WITH ABOVE, EMBASSY IS REQUESTED TO REVIEW THESE MATTERS AS A MATTER OF PRIORITY WITH GOH WITH VIEW TO OBTAINING GOH CONSENT TO MEET WITH AEROTRADE AND TO DISCUSS WITH PIERSON HIS DOCUMENTED CLAIMS. THIS COULD ALSO PROVIDE OPPORTUNITY TO RAISE AGAIN DESIRABILITY OF ESTABLISHING MECHANISM TO RESOLVE INVESTMENT DISPUTES AS MEANS TO ENHANCE HAITIAN INVESTMENT CLIMATE, PROTECT LIMITED OFFICIAL USE

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HAITIAN INTERESTS, AND AVOID GOVERNMENT-TO-GOVERNMENT PROBLEMS THAT INEVITABLY ARISE. INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID) OFFERS POTENTIAL BUT NOT ONLY SUCH MECHANISM. THIS WAS DESCRIBED IN REF-TELS D AND E AND IN POUCHED MATERIAL.

S. WE BELIEVE THAT GOH MIGHT PROFITABLY EXAMINE POSSIBILITY OF ACCEDING TO THIS CONVENTION. KISSINGER

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